

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

JONATHAN MCCANN on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SHIRLEY S. HILL, VERNON W. HILL II, and
INTERARCH, INC.,

Defendants, and

INTERARCH, INC. PROFIT SHARING PLAN
AND TRUST,

Nominal Defendant

Case No. 20-6435 (NLH/JS)

**PLAINTIFF'S UNOPPOSED
SUPPLEMENTAL MOTION
FOR PRELIMINARY
APPROVAL OF
AMENDMENT TO CLASS
ACTION SETTLEMENT**

Pursuant to Federal Rule of Civil Procedure 23, Plaintiff moves this Court for an order (1) preliminarily approving the Amendment to Class Action Settlement Agreement and Modified Plan of Allocation, which are respectively attached as Exhibit 1 and Exhibit 2 to the Declaration of R. Joseph Barton filed with this Motion; (2) approving the form of the Proposed Supplemental Class Notice attached as Exhibit 3 to the Declaration of R. Joseph Barton; and (3) setting deadlines for a schedule of events as set forth below, including a date for the Final Approval Hearing that provides a sufficient amount of time for mailing of the Supplemental Class Notice, for Class Members to file any objections to the changes to the Settlement, and for Class Counsel to respond to any objections. Defendants do not oppose this Motion. In support of this Motion, Plaintiff states as follows:

1. The Court certified Counts I-V in this case as a class action under Rule 23(b)(1) and (b)(2) on April 8, 2022, appointing Plaintiff as Class Representative and Plaintiff's counsel R. Joseph Barton and Adam Garner as Co-Lead Class Counsel. ECF No. 53 at ¶¶ 1, 6-7.

2. Also on April 8, 2022, the Court granted preliminary approval of the Settlement Agreement between Plaintiff and Defendants, approved the form of Class Notice, appointed RG/2 Claims Administration LLC as the Settlement Administrator, and directed notice to the Class. *Id.* at ¶¶ 5-20. RG/2 effected notice to the Class by U.S. mail on May 2, 2022. ECF No. 57.

3. On July 22, 2022, the parties filed cross motions to extend the deadlines regarding the class action settlement (ECF Nos. 56 and 58) and notified the Court that Defendants had given notice of their intent to withdraw from the settlement – which would become effective only 30 days after such notice if no agreed modification was reached – and that counsel for the parties were discussing whether the parties would enter into a modified settlement. The Court ordered the parties to file a new preliminary approval motion. ECF No. 63.

4. The parties have reached a modified settlement, the terms of which are unchanged from the Settlement previously preliminarily approved by the Court except as memorialized in the Amendment to Class Action Settlement Agreement. The accompanying brief explains the modifications to the Settlement effected by the Amendment and sets forth why the amended Settlement is fair, reasonable, adequate, and should be preliminarily approved by the Court.

5. In order to facilitate the orderly resolution of the Action, Plaintiff proposes deadlines for a schedule of events, including a date for the Final Approval Hearing that provides a sufficient amount of time for mailing of the Notice, for Class Members to file any objections to the Settlement, and for Class Counsel to respond to any objections. Plaintiff and Class Counsel request that the Court establish the dates set forth below.

EVENT	PROPOSED DEADLINE
Independent Fiduciary to issue opinion, as set forth in the Settlement Agreement.	21 Days After Preliminary Approval of Amended Settlement Agreement
Settlement Administrator to send Supplemental Notice by U.S. mail and/or E-mail to the Class	15 Days After Preliminary Approval of Amended Settlement Agreement
Settlement Administrator to post Supplemental Class Notice and other documents/information about the Amended Settlement to web site	15 Days After Preliminary Approval of Amended Settlement Agreement
Settlement Administrator submits declaration to Court confirming compliance with Notice procedures	30 Days After Deadline to Send Supplemental Class Notice
Class Counsel files any supplemental declaration(s) in support of motion for attorneys' fees, costs, expenses	14 Days Before Objection Deadline
Deadline for Class Members to mail any objection to Plan of Allocation	30 Days After Supplemental Class Notice is Sent
Class Counsel to file motion for final approval	14 Days Before Fairness Hearing
Defendants to file any motion or brief in support of additional findings requested of the Court on Final Approval	14 Days before Fairness Hearing [same deadline as motion for final approval]
Fairness Hearing	At least 80 Days after Preliminary Approval of Amended Settlement Agreement

Respectfully submitted,

/s/ Adam H. Garner

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Dated: September 15, 2022

CERTIFICATE OF SERVICE

I hereby certify on this 15th day of September, 2022, a copy of the foregoing was filed electronically via the Court's CM/ECF system and is available for viewing and downloading by all counsel of record from the CM/ECF system.

/s/ Adam H. Garner
Adam Harrison Garner